

Plaintiff's Exhibit "L"

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1 Volume: I
2 Pages: 1-57
3 UNITED STATES DISTRICT COURT
4 DISTRICT OF MASSACHUSETTS
5

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6 LAYLA KIANI,
7 Plaintiff,
8 v.
9 TRUSTEES OF BOSTON UNIVERSITY,
10 Defendants.

x

11 DEPOSITION OF CHRISTINE A. MARX
12 Monday, April 25, 2005, 1:04 p.m.
13 Law Office of Ben Tariri
14 343 Washington Street
15 Newton, Massachusetts 02458
16

22 Toni F. Beckwith, Registered Merit Reporter
50 Winsor Avenue
23 Watertown, Massachusetts 02472
Tel: 617.924.2731
24 Fax: 617.924.9899

2

1 APPEARANCES:
2
3 LAW OFFICE OF BEN TARIRI
4 By Ben Tariri, Esquire
5 343 Washington Street
6 Newton, Massachusetts 02458
7 Counsel for the Plaintiff
8
9 BOSTON UNIVERSITY
10 OFFICE OF THE GENERAL COUNSEL
11 By Lawrence S. Elswit, Esquire

12 125 Bay State Road
13 Boston, Massachusetts 02215
14 Counsel for the Defendants
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1 I N D E X
2 Deposition of: Direct Cross Redirect Recross
3 CHRISTINE A. MARX
4 By Mr. Tariri 4
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11 E X H I B I T S
12 No. Page
13
14 1 E-mail to L. Kiani
15 from C. Marx 21
16 2 Letter dated 1/14/04 to
17 L. Kiani from C. Marx 37
18 3 Article V. The Judicial
19 Committee 44
20
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1 P R O C E E D I N G S
2 MR. TARIRI: Swear the witness.
3
4 CHRISTINE A. MARX,
5 having been satisfactorily identified by the

6 production of her driver's license, and duly
7 sworn by the Notary Public, was examined and
8 testified as follows:

9

10 DIRECT EXAMINATION

11 BY MR. TARIRI:

12 Q. Good afternoon. My name is Ben
13 Tariri. I'm attorney for the plaintiff Layla
14 Kiani. Present today at the deposition is Chris
15 Marx.

16 A. Christine is my full name.

17 Q. And Attorney Lawrence Elswit.

18 Ms. Marx, if I ask you any questions,
19 I would expect that you would give an answer.
20 Your attorney is welcome to object.
21 Notwithstanding that objection, I will expect
22 you to answer.

23 Ms. Marx, have you had an opportunity
24 to discuss this deposition with your attorney?

5

1 A. With --

2 Q. With your attorney?

3 A. Lawrence Elswit, yes, I have.

4 Q. When was the last time you spoke with
5 him regarding this deposition?

6 A. Just now out in the hall.

7 MR. ELSWIT: That's the answer.

8 Q. How do you spell your last name,
9 Ms. Marx?

10 A. M A R X.

11 Q. What do you do, Ms. Marx?

12 A. I'm assistant dean for student affairs
13 at Boston University School of Law.

14 Q. How long have you worked for Boston
15 University?

16 A. I've been there since the summer of
17 1987.

18 Q. What was your position when you
19 started your work?

20 A. At BU?

21 Q. At Boston University.

22 A. It was the same position, assistant
23 dean for student affairs.

24 Q. What does it take to become an

1 assistant dean?

2 A. Do you mean educational background or?

3 Q. Experience, background, educational

4 background.

5 A. I don't think there's any set

6 requirements. Different schools have different
7 qualifications and have hired different sorts of
8 people to be it. From what I can tell, there's
9 no one set career path of how you become an
10 assistant dean of student affairs.

11 Q. My question is: Does it require
12 experience in the same field or similar field?

13 A. You mean law or legal education?

14 Q. Student affairs.

15 A. I think it's helpful, but I think it's
16 also helpful to have a law background. So I
17 think it just depends. It depends on the
18 institution. That's all I can really...

19 Q. Do you have a law background?

20 A. Yes, I do.

21 Q. What degree do you have in law?

22 A. I have a J.D. degree.

23 Q. Prior to BU, did you work for any
24 other academic institution?

1 A. No, I did not.

2 Q. What did you do before you started
3 working for BU?

4 A. My last job before that was working at
5 a small firm in Boston, McCormack & Epstein.

6 Q. In what capacity?

7 A. I was an associate at the firm.

8 Q. What prompted you to look for a
9 position as an assistant dean?

10 A. The position actually was brought to
11 my attention by someone who knew that I had both
12 a J.D. degree and a Master's degree in social
13 work. And they thought that given that, that's
14 somewhat of a unique combination of experiences,
15 that it might be a position that I would be good
16 at and might be interesting to me.

17 Q. Do you specifically work for the law
18 school?

19 A. Yes, I do. I guess I'm considered an

20 employee of Boston University, but I work day to
21 day within the law school.

22 Q. That's who you've been working for
23 since 1987?

24 A. Yes, that's correct.

8

1 Q. Ms. Marx -- may I call you Ms. Marx?

2 A. Sure.

3 Q. Can you describe your position? What
4 do you do?

5 A. I think there are two major parts to
6 my position: One is the day-to-day advising and
7 counseling with law students. I deal
8 specifically with the J.D. students. And the
9 other big piece would be doing programming and
10 workshops for J.D. students. Those are the two
11 main areas.

12 Q. On a given day, how many students do
13 you see on an average given day?

14 A. It varies depending on the time of
15 year because the academic calendar dictates how
16 busy it is.

17 Q. True.

18 A. Because of what's going on. For
19 example, now we're entering into our exam
20 period, so I might see six to eight students a
21 day and get probably that, but it really varies
22 day by day. It depends on the time of year.

23 Q. Would you say you see more than ten
24 students a day on an average given day?

9

1 A. Probably not on an average day. But I
2 can't pin it down because it really depends on
3 the time of year, so it's even hard to average
4 it out.

5 Q. Can you give us an example as what you
6 do, just an example as what you do for any
7 average student? You know, if a student comes
8 to you, why would they come to you rather than
9 go to somebody else?

10 A. They come to me with the gamut of
11 issues from any kind of personal issue they
12 might have: My mother was just diagnosed with
13 cancer, and I don't know if I should stay in

14 school; it's exam period, and I'm going to have
15 to go home to help my mother who is ill; I'm not
16 sure can I take my exam; I'm living with another
17 law student who is driving me crazy, and can you
18 do something about it; I have a professor who I
19 think is giving more work than other professors,
20 and I really hate to complain about it, but it's
21 really driving me crazy, can you do something
22 about it; why is BU giving up the Sergeant
23 Gymnasium which is really close to the law
24 school.

10

1 Q. Do you blame them?
2 A. Even though I know they have a new
3 fitness center, but that's really going to be
4 inconvenient for me. I could go on and on.
5 Q. What do you do to respond to them?
6 A. Well, obviously it depends on what the
7 issue is.
8 Q. What can you do?
9 A. Well, again, it depends on the issue,
10 what the issue is that they raise.
11 Q. Well, for instance, you gave an
12 example, if I recall, a student who comes in and
13 says my roommate is -- I'm not happy with my
14 roommate.
15 A. Mm-hmm.
16 Q. What would you do?
17 A. You mean if the roommate is a law
18 student?
19 Q. Yes.
20 A. I would talk to the student further
21 about it to try and get more information. I
22 would probably let the student know that
23 situations that are outside the law school that
24 delve more into the students' personal lives are

11

1 harder to deal with, and it can be very
2 threatening to another law student if somebody
3 in the Dean's Office contacts that student and
4 calls them in, even in a way to be helpful, it
5 still is, some people think of it as it can be
6 intimidating.
7 But if the complaining student wants

8 me to, I'll probably offer to talk to the other
9 student and see if maybe I could at least try to
10 think of some solution that all of them might be
11 happy with but also make it clear what my
12 limitations are.

13 Q. What are those limitations? Are any
14 of the decisions absolutely binding?

15 A. That I would make?

16 Q. Yes.

17 A. I'm trying to think.

18 (Pause)

19 A. I don't know. That's hard for me to
20 answer. I don't know. I guess it depends on
21 what the decision is.

22 MR. ELSWIT: If you don't know, you
23 don't know.

24 A. I just don't know.

12

1 Q. Do you also deal with handicapped
2 students?

3 A. Yes, I do.

4 Q. On a regular basis?

5 A. Yes.

6 Q. What do you do for them?

7 MR. ELSWIT: Objection.

8 MR. TARIRI: Objection noted.

9 A. A sort of general thing I do is I send
10 letters out in the summer to accepted students
11 who we have pretty much assurance that they're
12 going to be coming to the law school, and I give
13 them information about a lot of things:
14 Orientation, registration, computer facilities.
15 And then I also include information about, for
16 students with disabilities, what the procedure
17 is if they think, if they have a disability and
18 are seeking some accommodations for the
19 disability, what the University's procedure is
20 on that. So that would be a start.

21 Q. Do you have a large handicapped
22 student group?

23 MR. ELSWIT: Objection. Large. Could
24 you define that, please?

13

1 Q. In relation to the number of students

2 in the school, do you have more than 10 percent
3 handicapped students?

4 A. I don't know what the current number
5 is.

6 Q. In your estimation, how many students
7 are handicapped?

8 MR. ELSWIT: Objection.

9 A. I would just be speculating.

10 MR. TARIRI: What is the basis of your
11 objection?

12 MR. ELSWIT: My objection is that,
13 aside from the fact the question has no real
14 bearing on this case, my objection is that
15 you've asked her to speculate, and the term
16 handicapped covers such a wide array of
17 potential issues, that even if Dean Marx Knew
18 how many students had disabilities, it would not
19 be informative of anything. Because there are
20 so many different types of disabilities that
21 require so many different adjustments and raise
22 so many different unique sets of needs that as a
23 number, it's meaningless.

24 MR. TARIRI: I'm not looking for

14

1 whether it's meaningless or not. I'm looking
2 because she's been an assistant dean since 1987.
3 So she would be in the right position to know
4 whether there are handicapped students at the
5 school.

6 MR. ELSWIT: Dean Marx has already
7 testified that there are students with
8 disabilities in the law school.

9 MR. TARIRI: I just asked her how
10 many.

11 MR. ELSWIT: She testified she doesn't
12 know, and you're asking her to speculate.

13 MR. TARIRI: I'm just asking her to
14 give me a ballpark figure.

15 Q. Could you give me a ballpark figure?

16 A. I can't. I just can't.

17 Q. Would it be more than five?

18 MR. ELSWIT: Objection.

19 A. I could answer that there -- I'm
20 confident there are more than five, but that's
21 all. I just can't give a definite number.

22 Q. You testified that students come in
23 with various handicapped disabilities. Can you
24 give us several examples of, two or three

15

1 examples of, what those disabilities could be?

2 A. Well, I don't think I did say that
3 students came in with various disabilities.
4 Maybe I did, but I don't remember saying that.
5 But there could be learning
6 disabilities, hearing impairment, visual
7 impairment, mental illness.

8 Q. Do you have any students who have come
9 in with, in the time that you've been there, who
10 have had cerebral palsy?

11 A. I don't always know the exact
12 diagnosis unless the student tells me because
13 the University's process initially goes through
14 the Office of Disability Services at BU. So
15 they're the ones that get all the documentation
16 and know the exact nature of someone's
17 disability if they choose to inform somebody in
18 the University about it.

19 Q. Let me restate that. Have you seen
20 any students who are wheelchair-bound?

21 A. Yes. You mean at the law school?

22 Q. At the law school. I'm referring to
23 the law school because you are the assistant
24 dean of the law school.

16

1 A. Right.

2 Q. Have you seen students who have
3 dexterity issues, issues with writing?

4 A. Yes.

5 Q. Do you have an opportunity to interact
6 with them?

7 A. Yes.

8 Q. Can you give us an example of that?

9 A. I'm trying to remember. I'm not sure
10 what the question is. I'm not sure what the
11 interaction -- it's so broad.

12 Q. Let me rephrase. You testified that
13 you've had students who have handicap status who
14 have dexterity problems?

15 A. Yes.

16 Q. And you also said that you've known
17 students who could not, who could not write --
18 well, you may not have said that. But would you
19 say that you have known students who could not
20 write or at least easily write?

21 A. Yes. I have known students who inform
22 me that they have difficulty writing.

23 Q. And what did you do when they informed
24 you of that?

17

1 A. Well, it depends on the nature of why
2 they're coming to see me. I mean, if it's to
3 ask for accommodations related to their
4 disability, then I make sure they understand the
5 University's procedure which the law school
6 follows for requesting accommodations for
7 disability.

8 Q. If they came to you for
9 accommodations, did you advise them of that?

10 A. Yes, what the procedure is for
11 requesting accommodations.

12 Q. Now we're speaking about a particular
13 student who had difficulty writing. Did that
14 student receive the accommodation that he or she
15 was looking for?

16 A. I don't know, because I don't make the
17 initial determination.

18 MR. ELSWIT: I don't know. Just
19 answer the question.

20 A. I don't know.

21 Q. Was this a recent student?

22 A. What do you mean by recent?

23 Q. The student that you just referred to
24 who had difficulty writing, was this a recent

18

1 case?

2 MR. ELSWIT: How recent?

3 MR. TARIRI: In the last five years.

4 A. Yes.

5 Q. Do you know this person personally on
6 a name basis?

7 A. Yes.

8 Q. What is that person's name?

9 MR. ELSWIT: Objection. Don't answer.

10 I'm going to instruct the witness not to answer
11 it because that involves information that would
12 cause the witness to violate the privacy of
13 another student, and we're not going there.

14 Q. Ms. Marx, can you tell us if it was a
15 female or a male?

16 A. A female.

17 Q. Was it more than one person?

18 A. Yes.

19 Q. How many?

20 A. I don't know. I just don't know.

21 Q. Well, again, we're discussing just the
22 last five years.

23 A. I would have to go through all my
24 records and the records of the school. I'm just

19

1 not -- I didn't do that in preparation for this.

2 Q. What is the procedure to receive
3 accommodations in your school?

4 A. We follow the University's procedure;
5 which is, students contact the BU Office of
6 Disability Services and they submit their
7 documentation to that office.

8 That office makes a preliminary
9 recommendation which goes to our associate dean
10 for academic affairs. This is just dealing with
11 the J.D. students.

12 And then the associate dean for
13 academic affairs in the law school does a
14 recommendation to the dean of the law school
15 because the dean of the law school ultimately
16 must approve the accommodations or the
17 recommendation as not being inconsistent with
18 the academic program.

19 And then once the dean makes a
20 decision, then the Registrar's Office notifies
21 the students in writing what accommodations have
22 been approved, and I get a copy of that.

23 Q. Ms. Marx, are you familiar with Ms.
24 Layla Kiani?

20

1 A. Yes, I am.

2 Q. How do you know her?

3 A. She was a student at Boston University

4 School of Law.

5 Q. How long have you known her?

6 A. I don't remember the exact year,

7 whenever she matriculated at the law school. I
8 just don't remember what the year was.

9 Q. If I said it was in the year 2000,
10 would that be a fair estimate of the time?

11 A. I think so, but I'm not 100 percent
12 sure.

13 Q. Do you recall the first time you met
14 her or were in contact with her?

15 A. No, I don't.

16 Q. Do you recall if you were ever in
17 contact with her?

18 A. Yes.

19 Q. Ms. Marx, do you believe that
20 Ms. Kiani has a disability?

21 A. Yes, I do.

22 MR. ELSWIT: Objection.

23 Q. Did Ms. Kiani at any time in her first
24 year communicate with you regarding her

21

1 disability and dexterity problems?

2 A. I don't recall. I just don't
3 remember.

4 (Exhibit 1 marked
5 for identification)

6 Q. If you would look that over and read
7 it to yourself.

8 (Pause)

9 A. Okay.

10 Q. Do you recognize this document?

11 A. Yes, I do.

12 Q. Was this written by you?

13 A. The top part where it says, Hi again
14 down to colon, 06.

15 Q. Was the top part written by you?

16 A. Yes.

17 Q. Do you recall when you wrote this?

18 A. No, I don't.

19 Q. This is an undated document --

20 A. Mm-hmm.

21 Q. -- so it's not clear as to the date.

22 Why did you write this letter?

23 A. It was in response to Layla's e-mail

24 to me that is set out below.

22

1 Q. At the time, had you seen her, had you
2 seen Layla Kiani?

3 A. I don't remember.

4 Q. Can you read the date in the middle of
5 the document. It starts with 06?

6 A. 06, colon, 06 p.m., 10/26/00 EDT.

7 Q. Would it be fair to say that this was
8 at the beginning of Ms. Kiani enrollment in the
9 school?

10 A. I don't know. I honestly don't know.

11 Q. Did you say that you had seen
12 Ms. Kiani prior to writing this e-mail?

13 A. I don't remember.

14 Q. You said you had sent this letter in
15 response to Ms. Kiani's e-mail, Exhibit No. 1?

16 A. That's correct.

17 Q. Is it normal for you to send this sort
18 of an e-mail to a student when a student
19 communicates with you?

20 A. I would say almost always when a
21 student e-mails me, at some point, and
22 preferably as soon as possible, I e-mail them
23 back to make some kind of a response, yes.

24 Q. When you sent this e-mail, were you

23

1 familiar with Ms. Kiani's disability?

2 A. I don't remember.

3 Q. Apparently Ms. Kiani was looking for
4 what she calls a transcriber; am I correct?

5 A. According to her e-mail, yes.

6 Q. In your experience, what is a
7 transcriber, which is probably another name for
8 a stenographer?

9 A. My understanding of a transcriber
10 would be someone who writes down in some
11 official way or with some machine something
12 that's said orally for use by someone else.

13 Q. Do you employ such a person at the
14 school?

15 A. Transcriber, no.

16 Q. Have you ever had a transcriber at the
17 school?

18 A. Not that I'm aware of, but I don't
19 know that for sure.

20 Q. So if a student needs this sort of
21 accommodation, what would you do?

22 A. I would advise them to go to the BU
23 Office of Disability Services to have them
24 review their disability and what the

24

1 accommodation is.

2 Q. You're not answering my question.

3 If a student needs a transcriber --

4 and you just testified that BU does not provide
5 transcribers, you've never seen one.

6 A. Not that I'm aware.

7 MR. ELSWIT: Objection. That is not
8 what the witness said. What the witness said
9 was, the school, presumably referring to the law
10 school, does not employ a transcriber. The
11 question of whether the University provides a
12 transcriber has not yet been asked.

13 And she was in the process of
14 answering your question, which is: When a
15 student needs an accommodation, what do you do.
16 And she was telling you that she refers them to
17 the Office of Disability Services before you
18 interrupted her.

19 Q. I'm not looking for the procedure. I
20 already asked that question. I'm just
21 interested in knowing if a student needs a
22 transcriber, and you testified earlier that the
23 school does not employ transcribers, what does
24 the student do who needs a transcriber?

25

1 MR. ELSWIT: Objection again. Are you
2 asking the witness -- first, you asked the
3 witness whether the school employed a
4 transcriber. I think, for the record, it would
5 be useful to state, to reframe that question in
6 terms of the law school so that we know actually
7 what Dean Marx is testifying about and then go
8 forward.

9 MR. TARIRI: My question was regarding
10 the school as a whole.

11 MR. ELSWIT: Boston University?

12 Q. Does Boston University employ a
13 transcriber?
14 A. I don't know that.
15 Q. In your experience as the assistant
16 dean of the law school, has Boston University
17 Law School employed a transcriber during the
18 time that you have been their employee?
19 A. You mean the law school?
20 Q. The law school.
21 A. Not that I'm aware of, no.
22 Q. And you've been there since 1987?
23 A. Right. That's correct.
24 Q. Ms. Marx, you also said that you had a

26

1 student recently in the last five years who
2 needed help because of dexterity issues.
3 Without going into details, how did you address
4 that issue? Was he or she assigned a
5 transcriber?
6 A. Not that I'm aware of.
7 Q. In your experience and in your
8 knowledge as the assistant dean, is it the
9 policy of the law school to accommodate students
10 who have dexterity issues with stenographers or
11 transcribers?
12 A. We get our recommendation first from
13 the BU Office of Disability Services, and then
14 ultimately it has to be approved by the dean of
15 the law school, so that's how that would be
16 handled.
17 Q. But it is the policy of the school to
18 not provide transcribers?
19 A. The law school?
20 Q. The law school, I'm sorry.
21 A. Again, we would go by what
22 accommodations were recommended by the BU office
23 of Disability Services and approved by the dean
24 of the law school.

27

1 Q. Do you recall what accommodations were
2 actually provided for Ms. Kiani?
3 A. I believe the Disability Services
4 Office recommended, and Dean Cass, who was the
5 dean of the law school, approved that she have a

6 note taker in classes that could tape-record her
7 classes. I believe that she had up to double
8 the regularly-allotted time for in-class and
9 eight-hour take-home exams and for her exams
10 that she be allowed to either dictate them and
11 have them typed up or have a scribe to write the
12 exam for her.

13 Q. Seems you have a very clear memory of
14 what she was given as an accommodation.

15 Do you recall anyone else who received
16 similar accommodations during your period at the
17 law school?

18 A. Yes.

19 Q. Do you recall anyone who received more
20 accommodations than what Ms. Kiani did during
21 your employment?

22 A. I don't remember.

23 Q. Do you recall, I may have asked this
24 before, but do you recall why she needed a

28

1 transcriber?

2 A. My only recollection is her e-mail to
3 me where she sets it out in her e-mail. That's
4 all I remember.

5 Q. When was the first time you met her?

6 A. I don't remember.

7 Q. Would it have been prior to 2003 or
8 after 2003, let's say January of 2003?

9 A. Before 2003.

10 Q. Do you recall why you met her, under
11 what circumstances you met her?

12 A. She was a student at the law school.

13 I remember that she would periodically come to
14 my office or e-mail me like a lot of students
15 do.

16 Q. Was she in a wheelchair?

17 A. Sometimes.

18 Q. Do you recall a specific instance when
19 she actually came to see you for a specific
20 purpose? As far back as possible, if you could,
21 please.

22 A. No, I don't remember.

23 Q. Do you recall discussing her
24 disability in the year 2000 with anyone?

1 A. With anyone?

2 Q. With anyone.

3 A. I recall talking to Allan Macurdy, who
4 was the director of BU Office of Disability
5 Services, after Layla sent me this e-mail.

6 Q. What did you tell him?

7 A. I don't remember the specific
8 conversation, exactly what I said to him.

9 Q. Do you keep notes?

10 A. Sometimes.

11 Q. You don't have too many handicapped
12 students in your law school, do you?

13 A. I don't know.

14 Q. In other words, you would remember
15 Ms. Kiani if you saw her?

16 MR. ELSWIT: Objection. That's not
17 what she said.

18 Q. Would you remember Ms. Kiani if you
19 saw her for the first time?

20 A. I mean, I remember her. I remember
21 who she is.

22 Q. Well, I guess my question is: Does
23 she leave an indelible mark in one's mind?

24 MR. ELSWIT: Objection.

1 A. I can't answer that. I don't know. I
2 can't speculate about that.

3 Q. When she sent you this e-mail, and you
4 claim to have responded to this e-mail, to her
5 e-mail?

6 MR. ELSWIT: Objection.

7 Q. This is referring to Exhibit 1. Did
8 you respond to her e-mail as shown on Exhibit 1?

9 A. Yes. That's my e-mail response to
10 Layla.

11 Q. Did you send that through the BU Law
12 School e-mail --

13 A. Yes.

14 Q. -- server?

15 A. However BU does its e-mail, but it's
16 through my BU address.

17 Q. Do you keep a record of your e-mails?

18 A. What do you mean by record?

19 Q. Do you keep your e-mails?

20 A. Not all of them.
21 Q. What do you do with them?
22 A. You mean the ones I keep or the ones
23 I --
24 Q. The ones you don't keep.

31

1 A. I try to clean out my e-mail
2 periodically because I get so much e-mail, I've
3 been finding that my e-mail actually doesn't
4 work sometimes. And I've been told to try to
5 clean it out a little bit.
6 Q. When was the last time you cleaned out
7 your e-mail?
8 A. Well, let's see, today I would have
9 deleted some e-mails that I got after I
10 responded to them or if I didn't need to respond
11 to them.
12 Q. So would it be fair to say that you
13 deleted e-mails that were sent to you in the
14 last year?
15 A. Yes.
16 Q. And would it also be fair to say that
17 you deleted e-mails that were sent to you in the
18 year before last year?
19 A. Yes.
20 Q. Would it be fair to say that you would
21 delete e-mails that were sent to you in the year
22 2000 and the responses that you sent out in the
23 year 2000?
24 A. Yes.

32

1 Q. In your opinion, when was this e-mail
2 saved? We have a printout here as you can see
3 on Exhibit 1. When was this e-mail saved?
4 A. I have no idea. I don't know.
5 MR. ELSWIT: Ben, what are you
6 insinuating with this line of questioning?
7 MR. TARIRI: I'm not insinuating. I'm
8 just asking questions. I'm just trying to find
9 out where this e-mail was.
10 MR. ELSWIT: It was obviously in Dean
11 Marx's file because Boston University produced
12 it as Document No. 0232. And the fact that her
13 server apparently does not have the date on it

14 doesn't take away from the fact that it was
15 saved and it was produced in response to a
16 document request.

17 Q. Ms. Marx, I'm going to ask you this
18 point-blank: Did you send this e-mail?

19 A. As far as I can remember, yes.

20 Q. Well, you would know because this came
21 from your e-mail address, so you would know if
22 you sent this e-mail?

23 A. Yes. That's my e-mail address.

24 Q. Did you receive any response from

33

1 Ms. Kiani subsequent to this e-mail?

2 A. You mean an e-mail response or?

3 Q. Any response.

4 A. I don't remember.

5 Q. Did you think about her after you sent
6 this e-mail? Were you wondering?

7 MR. ELSWIT: Objection.

8 MR. TARIRI: Objection noted.

9 A. I remember feeling badly that, you
10 know -- whenever a student e-mails me about an
11 issue, usually when they e-mail me, it's because
12 they're concerned about an issue. So I do
13 remember feeling badly, and I wanted to try to
14 help if I could, which is why I called Allan
15 Macurdy and talked to him, because I wanted to
16 help as best as I could, so I do remember that.

17 Q. Did you talk to Ms. Kiani. Did you
18 follow up on this? Two questions. I'm sorry.
19 You can answer the first question first.

20 A. You mean after I sent this e-mail?

21 Q. Yes.

22 A. I don't remember.

23 Q. Did you follow up to see whether she
24 actually contacted the provost?

34

1 A. I don't remember.

2 Q. Did she contact you?

3 A. I don't remember.

4 Q. When was the first time that you
5 recall having met her?

6 A. I don't remember.

7 Q. When was the first time that

8 Ms. Kiani's name actually came up?

9 A. I don't remember.

10 Q. When was the first time that you
11 actually met her, that you recall?

12 A. I don't remember.

13 Q. You did testify that you met her?

14 A. Yes.

15 Q. Ms. Marx, are you familiar with this
16 case? Are you somewhat familiar with this case?

17 A. Somewhat familiar.

18 Q. You do know that Ms. Kiani has filed a
19 lawsuit against BU Law School for discrimination
20 as well as for breach of contract?

21 A. I'd have to look at the complaint
22 again.

23 Q. In fact, you are a defendant in the
24 lawsuit? You were one of the defendants in the

35

1 lawsuit?

2 A. You mean originally?

3 Q. Originally.

4 A. As an individual, yes.

5 Q. Do you know what the lawsuit was about
6 as far as it concerning you?

7 A. No. I couldn't understand it.

8 Q. Do you know generally why there was a
9 lawsuit, that there is a lawsuit?

10 A. I think there's something related to
11 this transcriber issue, but that's all I know.
12 I'm not sure about the breach of contract. I
13 don't remember.

14 Q. Are you familiar with Professor Kull?

15 A. Yes, I am.

16 Q. Do you know Professor Mariner?

17 A. Yes.

18 Q. And Dean Cass?

19 A. Yes.

20 Q. Are you familiar with the issues
21 surrounding Ms. Kiani prior to this lawsuit?

22 MR. ELSWIT: Objection.

23 Q. To be more specific, issues being that
24 she was charged with plagiarism?

36

1 A. Yes.

2 Q. When was the first time you heard
3 about that, about plagiarism?
4 A. I don't remember when.
5 Q. Did you have any conversations with
6 anyone regarding the plagiarism, quote/unquote,
7 plagiarism?

8 MR. ELSWIT: Objection.

9 A. I don't remember specific
10 conversations about that.

11 Q. Do you recall at all communicating
12 with anyone regarding Ms. Kiani as far as what
13 her status was subsequent to her being charged
14 with plagiarism?

15 A. You mean with regard to the plagiarism
16 issue?

17 Q. Correct.

18 A. I don't remember any. I just don't
19 remember.

20 Q. Do you recall communicating with
21 Ms. Kiani?

22 A. About?

23 Q. Well, do you recall communicating with
24 her subsequent to January 1, 2003?

37

1 A. I don't remember specific dates, no.

2 MR. TARIRI: Please mark this as
3 Exhibit 2.

4 (Exhibit 2 marked
5 for identification)

6 Q. Ms. Marx, could you examine that
7 document?

8 (Pause)

9 A. Okay.

10 Q. Do you recall writing this letter?

11 A. Yes.

12 Q. Was that the first time that you
13 communicated with her, with Ms. Kiani?

14 MR. ELSWIT: Objection. We've already
15 established that Dean Marx and Ms. Kiani had an
16 e-mail exchange two and a half years earlier,
17 three and a half years earlier.

18 Q. Subsequent to that previous e-mail in
19 Exhibit 1, is this the first time that you
20 communicated with Ms. Kiani?

21 A. No.

22 Q. So you communicated with her earlier,
23 then?

24 A. I'm not sure of the timing.

38

1 Q. Ms. Marx, prior to coming in to this
2 deposition today, did you have an opportunity to
3 consult with your records concerning Ms. Kiani?

4 A. Yes. I looked at her file in the
5 Registrar's Office.

6 Q. In the year 2003, did you discuss
7 Ms. Kiani with Professor Kull?

8 A. I don't recall discussing her with
9 Professor Kull.

10 Q. Who did you discuss anything about
11 Ms. Kiani with in the year 2003?

12 A. I just don't know the dates.

13 Q. I'm not looking for the specific
14 dates, just --

15 A. Or even the year.

16 Q. Ms. Marx, do you recall that Ms. Kiani
17 was charged with plagiarism?

18 A. Yes.

19 Q. Do you know why she was charged with
20 plagiarism?

21 A. No, I don't.

22 Q. Do you know any of the parties
23 involved who charged her with plagiarism?

24 A. I think Professor Mariner.

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1 Q. Do you know what the issue was?

2 A. No, I don't.

3 Q. Did anyone tell you what the issue
4 was?

5 A. No.

6 Q. Did you know Ms. Kiani was due to
7 graduate in May of 2003?

8 A. In May of?

9 Q. 2003.

10 A. I believe that's right.

11 Q. Do you also know that she was notified
12 by Dean Cass that she could not graduate because
13 of issues concerning one of her courses?

14 A. Yes.

15 Q. What do you know about that?

16 A. From what I recall, Dean Cass was
17 looking into an investigation of possible
18 plagiarism charges. And because Layla was
19 scheduled to graduate, he, I believe, exercised
20 his discretion to suspend her temporarily which
21 is a law under our academic regulations, our
22 disciplinary regulations.

23 Q. Do you recall speaking to Ms. Kiani
24 about that?

40

1 A. I don't remember.

2 Q. Do you recall at one point you had a
3 conversation with Ms. Kiani on or about February
4 3, 2003?

5 A. I don't remember.

6 Q. Do you recall putting your hands on
7 your ears when you were speaking to Ms. Kiani?

8 A. No. I don't remember that.

9 Q. Placing your hands on your ears?

10 A. No. I don't remember that.

11 Q. Would you ever place your hands on
12 your ears?

13 A. When?

14 Q. When somebody is speaking to you?

15 A. I can't recall doing that. That's not
16 like me, but I have no memory of that.

17 Q. Was Ms. Kiani scared of you?

18 MR. ELSWIT: Objection.

19 A. She never said that to me. I helped
20 her with a lot of things in the law school, and
21 I always thought we had a very good
22 relationship. I never got any sense from her
23 that she was afraid of me.

24 Q. You said you helped her. What did you

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1 help her with?

2 A. An example would be her petition for
3 reinstatement with the Academic Standards
4 Committee -- I'm an ex officio member of that
5 committee -- helping explain the process to her
6 for petitioning for reinstatement. That would
7 be an example.

8 Q. Did you have face-to-face conversation
9 with her?

10 A. You mean --
11 Q. At any point.
12 A. Yes.
13 Q. Did you have several face-to-face
14 conversations with her? Several meaning more
15 than three.
16 A. Yes.
17 Q. And how did she appear to you as far
18 as cognitively? Was she alert?
19 A. Yes.
20 Q. Was she with it?
21 MR. ELSWIT: Objection.
22 Q. Was she aware of her surroundings?
23 A. Yes.
24 Q. Did you ever think that she was

42

1 incoherent?
2 A. No.
3 Q. Did you ever ask her if she was taking
4 medications?
5 A. No.
6 Q. Did you think that she was taking
7 medication?
8 A. No. I don't think so.
9 Q. Did you ever ask her if she received
10 the stenographer that she was asking for in the
11 first year?
12 A. I don't remember.
13 Q. Would it be normal for you to ask her
14 if she received a stenographer that she had
15 asked for two years earlier?
16 A. Well, she wrote me this e-mail
17 indicating that it hadn't been approved, and I
18 wrote her back with what the University's next
19 process would be for her to try to get that
20 decision changed. I imagine I would have
21 followed up with her on that, but I don't have a
22 specific memory of it.
23 Q. Between the year 2000 and now, how
24 many handicapped students received a

43

1 stenographer?
2 A. I don't know.
3 Q. Did any?

4 A. I just don't remember.

5 Q. Are you familiar with the Judicial
6 Discipline Committee, the procedures of the
7 Judicial Discipline Committee?

8 A. Yes.

9 Q. Did you say you sat on one of those
10 committees before?

11 A. No. I'm an ex officio member of
12 Academic Standards Committee, which is a faculty
13 committee.

14 Q. You said you're familiar with the
15 procedures of the Judicial Discipline Committee?

16 A. I know what the disciplinary
17 regulations are, and they're part of that
18 process.

19 Q. Do you recall if one of the
20 requirements is to notify a student of his or
21 her right to remain silent?

22 A. Yes. That's in our disciplinary
23 regulations.

24 Q. So you're familiar with the

44

1 regulations?

2 A. Yes.

3 Q. How would you notify a student of
4 their right to remain silent? What is required,
5 and what do you do?

6 A. I'd have to look at the regulations
7 again just to make sure I'm stating it
8 accurately. Do you have those in front of you?
9 I don't have a copy with me.

10 MR. TARIRI: Please mark this as
11 Exhibit 3.

12 (Exhibit 3 marked
13 for identification)
14 (Recess taken)

15 MR. TARIRI: Back on the record.

16 BY MR. TARIRI:

17 Q. Ms. Marx, I now hand you what has been
18 marked as Exhibit 3, and you have a copy of it
19 as well. Could you read to yourself the very
20 first paragraph which has been bracketed.

21 (Pause)

22 A. Okay.

23 Q. Do you recognize this document?

24 A. It looks like part of our disciplinary

45

1 regulations.

2 Q. You are right. Do all the students
3 have the right to remain silent before they
4 appear before the Judicial Discipline Committee?

5 A. I don't know the procedures because I
6 don't get involved in the judicial process, so I
7 don't know the specific procedures and how they
8 all -- the timing and how it all works. I just
9 know what's in the regulations.

10 Q. I asked you earlier if you were
11 familiar with the procedure, and you said you
12 were?

13 A. Yes. It's based on what is in our
14 disciplinary regulations.

15 Q. In your experience, are the students
16 who appear before the Judicial Discipline
17 Committee, are they given a form that informs
18 them of the right to remain silent?

19 A. I don't know.

20 Q. Have you ever heard of anyone being
21 given that in written form, their right to
22 remain silent?

23 A. I don't remember.

24 Q. Does BU Law School follow its written

46

1 procedures?

2 MR. ELSWIT: Objection.

3 A. To the best of my knowledge, yes.

4 Q. After having read this, the first
5 paragraph in Exhibit 3 at the top of the page,
6 do you believe that a student is entitled to
7 receive a written document informing him or her
8 of their right to remain silent?

9 MR. ELSWIT: Objection. The document
10 that's been marked as Exhibit 3 speaks for
11 itself.

12 MR. TARIRI: I'm asking Ms. Marx for
13 her opinion, does she believe that a person
14 should receive a written warning of her right to
15 remain silent.

16 MR. ELSWIT: Objection as to the
17 relevance of Dean Marx's opinion, but go ahead

18 and answer.

19 A. Again, I'm not involved in the
20 judicial process when students are investigated,
21 so I don't know how the process actually plays
22 out.

23 Q. Do you know anyone who has had to
24 appear before the Judicial Committee? Have you

47

1 ever known anyone who has appeared?

2 A. Yes.

3 Q. Can you give us an example of a case
4 and the outcome?

5 THE WITNESS: That deals with another
6 student.

7 Q. You can't ask questions of your
8 attorney.

9 MR. ELSWIT: You can answer without
10 identifying another student by name.

11 THE WITNESS: Okay.

12 A. Yes. I remember there was a student
13 who went before a judicial panel, and the
14 allegation was that the student had forged the
15 signature of a physician for medical
16 documentation that the student used to get
17 permission to reschedule an exam.

18 Q. Were you involved in that case?

19 A. No. I just heard about it.

20 Q. Was the student handicapped?

21 A. No.

22 Q. Do you know of any handicapped
23 students that appeared before the Judicial
24 Discipline Committee?

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1 A. Yes.

2 Q. Can you give us that example? How
3 many were there?

4 A. I don't know. I don't remember.

5 Q. Can you give an example that you
6 remember?

7 A. In Layla's case, I believe she went
8 before the judicial panel.

9 Q. I meant someone other than Layla
10 Kiani.

11 A. Who has a disability?

12 Q. I'll rephrase my question. Do you
13 know of any handicapped students who have
14 appeared before the Judicial Discipline
15 Committee?
16 A. You mean besides Layla?
17 Q. Thank you. Besides Layla?
18 A. I don't know.
19 Q. Would it be fair to say that no other
20 handicapped students were ever brought before
21 the Judicial Discipline Committee?
22 A. I don't know that.
23 Q. I'm sorry?
24 A. I don't know that.

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1 Q. But if a student had appeared before
2 the Judicial Discipline Committee and you being
3 the assistant dean of the students, you would
4 know about it; wouldn't you?
5 A. I think usually, but I can't say 100
6 percent.
7 Q. Does the Judicial Discipline Committee
8 not notify you of cases that come before it
9 regarding students?
10 A. No, they do not.
11 Q. So how do you find out if a case is
12 pending before the committee?
13 A. Sometimes the Dean's Office will
14 notify me in case the student comes to me with
15 any questions just so I know and can anticipate
16 that.
17 Q. Let me rephrase the previous question
18 regarding handicapped students.
19 So you have not heard of any
20 handicapped students being brought before the
21 Judicial Discipline Committee?
22 MR. ELSWIT: The witness has testified
23 that she doesn't know if handicapped students,
24 if disabled students have been brought before

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1 the Judicial Discipline Committee.
2 MR. TARIRI: My question was that she
3 has not heard of, and that would be equivalent
4 to because she doesn't know.
5 A. I don't know.

6 Q. I'm sorry. My question is: So you
7 have not heard of any handicapped students being
8 brought before the Judicial Discipline
9 Committee?

10 A. I don't know.

11 Q. You don't know?

12 A. If I have heard.

13 Q. Would you like to elaborate?

14 A. I don't know. I don't know what I've
15 heard in all of my time at BU School of Law. I
16 don't know. I've been there a long time.

17 Q. Has there been a single instance where
18 a handicapped student has been brought before
19 the Judicial Discipline Committee other than
20 Layla Kiani, as far as you recall?

21 A. I don't know.

22 Q. So your answer is you don't know if
23 that has been?

24 A. That's correct; I don't know.

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1 Q. Did any of the professors ever talk to
2 you about Layla Kiani and plagiarism?

3 A. Not that I recall.

4 Q. Are you familiar with the drug
5 Phenergan?

6 A. No.

7 Q. Are you familiar with any medications
8 that Ms. Kiani was taking.

9 A. No, not specific medications.

10 Q. How long is law school? How long is
11 BU Law School, the J.D. program for BU Law
12 School?

13 A. You mean how many years to get the
14 J.D.?

15 Q. Yes.

16 A. Three years.

17 Q. Do you recall how many years Ms. Kiani
18 was at the law school?

19 A. I don't remember specifically.

20 Q. Would it be fair to say that she was
21 there for three years?

22 A. I think she was close to graduation,
23 so it would have been around three. She was
24 close to graduation.

1 Q. When you heard about the plagiarism,
2 that Ms. Kiani was charged with plagiarism or
3 was going to be charged with plagiarism, what
4 was your reaction? Did you have any?

5 A. I felt badly for her because I know
6 how stressful it is for students to go through a
7 disciplinary proceeding. But I had no knowledge
8 of the merits. I never get involved in the
9 merits of disciplinary cases, so I just, you
10 know, that's all.

11 Q. Did you talk to her subsequent to
12 finding out?

13 A. I don't remember.

14 Q. Did you ever sit down with her to ask
15 her how she was feeling?

16 A. I don't remember.

17 Q. Did you ever talk to her mother?

18 A. Yes.

19 Q. What did you talk about?

20 A. If I talked to her mother, it would be
21 just kind of chitchat because her mother didn't
22 understand English, I think, that well, so it
23 would be more if she was with Layla, and I would
24 say hi and I would say hi to her mother. So

1 nothing really beyond kind of niceties that I
2 can remember, just, Hi, how are you, have a good
3 day.

4 Q. Did you talk about the case at all
5 with her?

6 A. I don't remember.

7 Q. Have you had any handicapped students
8 since the graduation -- actually, since May of
9 2003 enrolling in the law school program?

10 A. I know we have students who have
11 disabilities currently.

12 Q. Can you just give us an idea of what
13 sort of disabilities?

14 A. I don't remember.

15 Q. Do you talk to these students?

16 A. It depends.

17 Q. Do students who have disabilities such
18 as being bound to a wheelchair, do they, if they
19 ask for it, would they receive a room in the

20 library to study?

21 A. I think there have been occasions
22 where if a student has asked for a room because
23 of a disability, I always check with the library
24 to see if that's possible and try to work it out

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1 with the library because the library controls
2 their space.

3 Q. But if the library approves, then the
4 student will receive the use of a room to study?

5 A. I think they have done that on
6 occasion, if they have room, and if it can be
7 worked out.

8 Q. Do you recall if Ms. Kiani asked for a
9 room to study?

10 A. I don't remember.

11 Q. Did she receive a room to study?

12 A. I don't know.

13 Q. Since May of 2003, have you, other
14 than the professors that you mentioned,
15 Professor Mariner, Professor Kull and Attorney
16 Rosenfeld, have you talked to anyone else -- and
17 Professor Ryckman and Dean Cass, have you talked
18 to anyone else regarding Ms. Kiani?

19 A. I'm not sure -- it sounds like from
20 your question that I said I talked to

21 Professor Ryckman and --

22 Q. And you haven't?

23 A. I don't remember.

24 Q. Then please clarify. Who have you

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1 talked to since the beginning of the year of
2 2003 regarding Ms. Kiani and plagiarism? And
3 please mention by name.

4 A. Probably Dean Cass. That's all I can
5 recall.

6 Q. So you only spoke to Dean Cass
7 regarding Ms. Kiani?

8 A. That's all I can recall.

9 Q. And you did not talk to anyone else?

10 A. Not that I remember.

11 MR. TARIRI: I have no further
12 questions.

13 MR. ELSWIT: No questions.

14 MR. TARIRI: Thank you, Ms. Marx.

15 MR. ELSWIT: Thank you.

16 (The deposition was concluded at 2:38 p.m.)

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1 IN RE: Kiani v. Trustees of Boston University

2 TAKEN: Monday, April 25, 2005

3

4 C E R T I F I C A T E

5 I, CHRISTINE A. MARX, do hereby certify
that I have read the foregoing transcript of my
6 testimony, and further certify that it is a true
and accurate record of my testimony (with the
7 exception of the corrections listed below):

Page Line Correction

8

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CHRISTINE A. MARX

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1 CERTIFICATE

2 Commonwealth of Massachusetts

3 Suffolk, ss.

4 I, Toni F. Beckwith, Registered Merit

5 Reporter and Notary Public in and for the

6 Commonwealth of Massachusetts, do hereby certify

7 that CHRISTINE A. MARX, the witness whose

8 deposition is hereinbefore set forth, was duly

9 sworn by me and that such deposition is a true

10 record of the testimony given by the witness.

11 I further certify that I am neither related

12 to or employed by any of the parties in or

13 counsel to this action, nor am I financially

14 interested in the outcome of this action.

15 In witness whereof, I have hereunto set my

16 hand and seal this 2nd day of May 2005.

17

18 Notary Public

19 CSR No. 111293

20 My commission expires:

21 February 11, 2011

22

23

24